

Environmental Protection Agency

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of EPA (this does not include ordinary *business lunches*);

(3) Accepting gifts, favors or entertainment where there is an obvious family or personal relationship between the employees or their families and the donor, and where that relationship clearly motivates the gift;

(4) Accepting loans from banks or other financial institutions on customary terms;

(5) Accepting unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars or other items worth less than \$10 (U.S. retail);

(6) Accepting incidental transportation in kind from a private organization (such as rides to and from airports) furnished in connection with official duties and customarily provided by the private organization.

(e) *Gifts and honors from foreign governments.* A special Government employee is not authorized to accept a gift, decoration, or other thing from a foreign government, except as authorized by 5 U.S.C. 7342. (See also 41 CFR part 101-49.)

(f) *Official travel expenses* as authorized by § 3.505.

§ 3.602 Statements of employment and financial interest.

(a) Each special Government employee must submit a Statement of Employment and Financial Interests, EPA Form 3120-1, at the time of initial appointment except where the special Government employee is required to file a public Financial Disclosure Report (SF 278). Annual supplemental statements are also due by July 31 of each year. In addition, if changes occur in the employee's financial interests or investments, a supplemental report is also due by the end of the four month period in which the transaction occurs; that is, by November 30 and March 31.

(b) The Statement of Employment and Financial Interests must be submitted to the cognizant Deputy Ethics Official or to the Designated Agency Ethics Official, as appropriate. (See § 3.201.) Public Financial Disclosure Reports must be submitted to the Designated Agency Ethics Official. (See § 3.302.)

Special government employees often have income from other employers, and

all such sources of income must be reported. For example, researchers and analysts must disclose the sources of their research contracts, and, where employees of universities or other public bodies or business organizations are working on projects supported by outside parties, the contributors must be identified.

(c) The purpose of the Statement of Employment and Financial Interests is to assist the employee and the Agency in avoiding conflicts of interest. The statement is confidential and will not be disclosed except to the Designated Agency Ethics Official and the Alternate Agency Ethics Official and designated staff members who assist them under this part and to Deputy Ethics Officials and members of their staffs who assist them under this part. The statements will not otherwise be disclosed except to the Office of Inspector General, to committees or subcommittees of Congress on written request, or as authorized by the Administrator or the Director of the Office of Government Ethics for good cause.

(d) Submitting a Statement of Employment and Financial Interests does not relieve employees of the duty to comply with the law. Employees must continue to refrain from participation where prohibited by 18 U.S.C. 208(a). (See § 3.606(d).)

(e) Information concerning financial interests which have been exempted from the prohibition of 18 U.S.C. 208(a) may be omitted. (See § 3.301(b) of this part.)

(f) The following special Government employees are not required to file a Statement of Employment and Financial Interest:

(1) Temporary and summer employees under 5 U.S.C. 5332 below the grade of GS-13;

(2) Employees participating in intern or other training programs.

§ 3.603 Review, enforcement, reporting and investigation.

(a) Statements of Employment and Financial Interests are reviewed by the cognizant Deputy Ethics Official or, in the immediate Office of the Administrator, by the Designated Agency Ethics Official. If the review discloses an actual or apparent conflict of interest,

the matter will be discussed with the employee. If necessary, the Deputy Ethics Official or the Designated Agency Ethics Official may: (1) Direct the employee not to participate in certain matters; (2) arrange a reassignment with the employee's supervisor; or (3) the Designated Agency Ethics official may grant a waiver under 18 U.S.C. 208(b) or direct the employee to divest.

(b) Special Government employees are encouraged to consult with the Designated Agency Ethics Official or the cognizant Deputy Ethics Official if they have questions concerning this subpart.

(c) Violation of these regulations may be cause for disciplinary action, and the Inspector General may be asked to investigate alleged or apparent violations.

[49 FR 7530, Feb. 29, 1984, as amended at 50 FR 39624, Sept. 27, 1985]

§ 3.604 Application of conflict-of-interest statutes.

The *conflict-of-interest* statutes (18 U.S.C. 203, 205, 207, 208 and 209) are set forth in appendix A to subpart A of this part. They apply to special Government employees as follows:

(a) Sections 203 and 205 of title 18, United States Code, provide generally that a special Government employee may not:

(1) Represent anyone else before a court or any Government agency in connection with a *particular matter involving a specific party or parties* in which the United States is a party or has a direct and substantial interest, and in which the employee has ever participated *personally and substantially* as a Government employee; or

(2) Act as *agent or attorney*, that is, communicate with intent to influence on behalf of another, in connection with a *particular matter involving a specific party or parties* pending in EPA, if he or she has served as an EPA employee for more than 60 days during the preceding 365 days. This restriction applies regardless of whether the special Government employee has participated in the matter.

(b) Under 18 U.S.C. 207, former special Government employees may not act as *agent or attorney*, that is, communicate with intent to influence, on behalf of

anyone other than the United States before any Federal agency or court in connection with a *particular matter involving a specific party or parties* in which the United States is a party or has a direct and substantial interest and in which they participated *personally and substantially* as Government employees. The two-year restriction of 18 U.S.C. 207(b) is unlikely to affect special Government employees because they are not likely to have exercised *direct supervisory or operating responsibility*. Likewise, the one-year *quarantine* of 18 U.S.C. 207(c) probably will not apply because special Government employees are unlikely to be designated as *senior employees*. See 5 CFR 737.33.

(c) Under 18 U.S.C. 207(g), during the entire period of the special Government employee's appointment, partners of special Government employees are forbidden to act as agent or attorney in connection with *particular matters* in which the United States is a party or has a direct and substantial interest and in which the special Government employee is participating or has participated *personally and substantially* as a special Government employee or which are under the special Government employee's *official responsibility*. This restriction applies to policy and rulemaking matters as well as to contracts, grants and adjudications. However, it applies only during the period of a special Government employee's service.

(d) Under 18 U.S.C. 208 special Government employees are forbidden to participate *personally and substantially* in any *particular matter* in which, to their knowledge, they, their spouses, minor children, partners, organizations in which they are serving as officers, directors, trustees, partners or employees or any persons or organizations with whom they are negotiating or have any arrangement concerning prospective employment, have a financial interest. However, the Designated Agency Ethics Official may waive this restriction if *the interest is not so substantial as to be deemed likely to affect the integrity of the services*. Requests for waiver must be addressed to the Designated Agency Ethics Official and must specifically set forth the nature